

ZONING BOARD OF APPEALS
MEETING MINUTES
FEBRUARY 8, 2011
4:00 P.M.

CALL TO ORDER: Mr. John Stetler, Chairperson called meeting to order at 4:00 P.M.

ATTENDANCE:

Members Present: Greg Dunn Carlyle Sims
Mike Fatt Becky Squires
James Moreno John Stetler

Members Excused: Deland Davis

Staff Present: Jill Steele, Deputy City Attorney
Glenn Perian, Senior Planner
Leona Parrish, Admin. Assistant, Planning Dept.

ADDITIONS OR DELETIONS TO THE AGENDA: None

OLD BUSINESS: None

Mr. John Stetler, Chairperson stated the meeting procedure and that everyone present may speak either for or against an appeal. He stated he will ask for a staff report to be read and then open the public hearing. At the public hearing persons may come forward and state their name and address for the record as it is being recorded and then speak either for or against an appeal. The public hearing will then be closed and the zoning board will discuss and make a decision. Mr. John Stetler stated if denied they may appeal to the Circuit Court.

NEW BUSINESS:

Appeal #Z-1-11: (105 Capital Avenue, N.E.)

Mr. John Stetler stated for the record this was a petition from Mr. John F. Dowdle, Farley Estes & Dowdle Funeral Directors, 105 Capital Avenue, N.E., Battle Creek, MI 49017; requesting a dimensional variance to waive the required 30 ft. front-yard setback for a corner lot, and allow a 28.2 ft. front-yard setback for an addition (elevator) to be built onto the existing structure. Parcel is zoned "O-1 Office District" commonly known as 105 Capital Avenue, N.E., Parcel #5370-00-186-0). The permit application is requested pursuant to Planning and Zoning Code, Chapter 1278.03(b).

Mr. Glenn Perian stated appeal #Z-1-11 is a petition from Mr. John Dowdle seeking a dimensional variance to construct an elevator 28.2 feet from a front property line at 105 Capital Avenue N.E. The property is located in the 0-1 zoning district where a 30 foot front-yard setback is required. The subject lot is approximately 110' wide by 300' deep and meets the minimum lot standard for the 0-1 zone. The lot has street frontage on three sides and by definition has three front-yards. The funeral home was constructed in 1937 and there is little room for expansion in any direction, other than to the north. The request is to construct an elevator addition, 10' x 20', in the southwest corner of the building along

North Avenue to bring the building into ADA compliance. Staff is recommending approval of appeal #Z-1-11 based on the following findings and those listed in the staff report:

- 1) Staff believes that the Appellant has clearly demonstrated that practical difficulty will exist if the variance is not granted in that the structure was built in its current location in 1937. Because of the location of the building and the interior layout of the funeral home, any addition to the building would be difficult to construct in conformance with the ordinance setback requirements of 30'.
- 2) Staff does not believe the practical difficulty is self-created in this case. In fact, the elevator will bring the building into ADA compliance.
- 3) Staff finds that the practical difficulties are exceptional and peculiar to the subject property.
- 4) Staff does not believe the term practical difficulty is deemed financial hardship in this case. The property owner is planning on making a \$300,000 dollar investment in the property to install the elevator.

Based on these findings and those articulated in the staff report, we are recommending approval of appeal #Z-1-11. Mr. Perian made reference to the drawing submitted with the application (last page of the report); noted the appellant will be removing the square footage for the lobby area noted on the plans for the new building addition and will now be closer to existing building minus that square footage.

Mr. John F. Dowdle, 157 Smithfield Rd., Battle Creek, MI; President of Farley-Estes Dowdle Funeral Home located at 105 Capital Avenue, N.E., stated he is present here today to speak on behalf of their appeal request for a variance to build an addition (elevator) onto their existing structure. Stated this would allow them to utilize their space in the downstairs area and accessible to the handicapped; also help staff that has mobility issues due to medical reasons. Noted it would then be ADA compliant.

Mr. John Stetler asked if there were any others here to speak for or against this variance, seeing none he called this public hearing to a close and would entertain a motion.

MOTION: MR. CARLYLE SIMS MADE A MOTION TO APPROVE #Z-1-11 TO ALLOW A DIMENSIONAL VARIANCE TO WAIVE THE REQUIRED 30 FT. FRONT-YARD SETBACK AND ALLOW A 28.2 FT. FRONT-YARD SETBACK FOR AN ADDITION (ELEVATOR) TO BE BUILT ONTO THE EXISTING STRUCTURE FOR PROPERTY LOCATED AT 105 CAPITAL AVENUE, N.E. BASED ON THE RECOMMENDATIONS AND FINDINGS IN THE STAFF REPORT; SUPPORTED BY MR. GREG DUNN.

Discussion:

Mr. Greg Dunn stated he would be voting in favor of this variance as presented and is in support. Stated it is a great thing to see a business that has been in the community for 70 plus years continue to make investments in that structure and remain in the downtown community; think it is something they should support and they should be commended.

MR. JOHN STETLER ASKED FOR ANY ADDITIONAL COMMENTS, SEEING NONE A VOTE WAS TAKEN FOR THE VARIANCE; ALL IN FAVOR; NONE OPPOSED MOTION APPROVED.

APPROVAL OF MINUTES:

MOTION: WAS MADE BY MR. GREG DUNN TO APPROVE THE DECEMBER 14, 2010 ZONING BOARD OF APPEALS MINUTES AS PRESENTED; SUPPORTED BY MR. JAMES MORENO ALL IN FAVOR; NONE OPPOSED, MOTION CARRIED – MINUTES APPROVED.

COMMENTS BY THE PUBLIC:

Mr. John Dowdle thanked Mr. Glenn Perian for his help with this appeal.

COMMENTS BY THE MEMBERS / STAFF:

Mr. John Stetler stated he had noticed in the recent months the staff and zoning board members have been in more congruent and have generally agreed and have not taken positions in opposition. Said he thinks it helps the staff to know what their position is, and certainly for them to know what the staff's position is. In addition helps the citizens so when they come to the staff for information they can pretty well outguess what they might do; wants to complement them all and feels they have done a great job.

ADJOURNMENT: Mr. John Stetler moved for the meeting to be adjourned; all in favor, meeting was adjourned at 4:12 P.M.

Submitted by: Leona A. Parrish
Administrative Assistant, Planning Department